Supreme Court, U.S.
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(59) (34)

Nos. 01-1118, 01-1119

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH SCHEIDLER, *et al.*,

Petitioners,

NATIONAL ORGANIZATION FOR WOMEN, INC., *et al.*,

Respondents.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

RESPONDENTS' OPPOSITION TO SEAMLESS GARMENT NETWORK'S MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*

Lowell E. Sachnoff
Sachnoff & Weaver, Ltd.
30 South Wacker Drive
Suite 2900
Chicago, Illinois 60606
(312) 207-1000

Fay Clayton
Counsel of Record
Susan Valentine
Joyce A. Pollack
Robinson Curley & Clayton, P.C.
300 South Wacker Drive
Suite 1700
Chicago, Illinois 60606
(312) 663-3100

Attorneys for Respondents

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Rule 29.6 Statement

Respondents National Organization for Women, Inc.; National Women's Health Organization of Summit, Inc. d/b/a Summit National Women's Health Organization; and National Women's Health Organization of Delaware, Inc. d/b/a Delaware Women's Health Organization do not have any parent corporations and do not issue stock to the public.

RESPONDENT'S OPPOSITION TO SEAMLESS GARMENT NETWORK'S MOTION FOR LEAVE TO FILE *AMICUS CURIAE*

Respondents oppose the motion of the Seamless Garment Network, et al. ("Seamless Garment") for two reasons: (1) it raises issues not raised by the Petitioners; and (2) it contains serious misstatements of facts.

1. Although none of the Petitioners has challenged the scope of the injunction issued by the trial court, Seamless Garment attacks what it calls the injunction's "stunning breadth (nationwide) and its extended duration." Brief at 2. In fact, the time and geographic limitations of the injunction matched the time and geographic scope of the pattern of crimes of the enterprise, Pro-Life Action Network ("PLAN"), which operated nationwide for twelve years after this case was filed.

2. Seamless Garment misstates the facts about the individual Petitioners' non-violence. It states, at 6, that the acts of violence "were most emphatically not the acts of any of the named Petitioners, all of whom are committed exclusively to non-violent protest." The trial record belies this statement. In addition to extensive proof from Respondents' witnesses of the individual Petitioners' personal involvement in acts of force and violence, *e.g.*, T766-80, 1144-59, 1470-73, 2333-36, 2366-69, 4120-22, on cross-examination, even Petitioner Scheidler admitted personal involvement in violent actions like the Pensacola Ladies' Center invasion. (This is the clinic where his "choose life" card was used.[1]) Scheidler admitted to meeting with fellow PLAN members John Burt and Joan Andrews to plan the Pensacola invasion. They referred to this meeting, which was held the night before the invasion itself, as a "conspiracy."

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[1] Seamless Garment errs in implying that Scheidler's "choose life" card was presented as a threat. Respondents never suggested the card was an act of extortion; it was put into evidence solely to prove Scheidler had personally visited that clinic and therefore the clinic administrator knew who he was.

T4021. At the meeting to plan the invasion, they discussed dismantling medical equipment, T4021; and they agreed on details of the invasion, such as how "a group of four to eight would enter the clinic through the waiting room and some would go in the back and either try to get in or block the door or block the entrances to the operating rooms," T4014. After Burt and Andrews were arrested and admitted they had "trashed that clinic," T4022, Scheidler boasted to other PLAN supporters about the violence he had personally orchestrated, saying, "Had a glorious time in Pensacola, FL last week – shut down an abortuary for a couple of days by dismantling the suction machine," PX670, and "You would have loved our action in Pensacola the week of March 25. Joan Andrews was superb and really put the old aborters out of business for a spell." PX674; T4025-26. In addition to the destruction of property at Pensacola, two clinic workers were sent to the hospital with serious injuries. T1470-73. Petitioner Scheidler also admitted teaching PLAN members to always "case the [clinic's] layout beforehand" to "make the clinic workers know that they are vulnerable." T3930. All of the individual Petitioners (and their organizations) participated in the planning and authorization of the use of force and violence, contrary to Seamless Garment's assertion.

3. As Seamless Garment recognizes, Respondents were prevented from introducing evidence of murder, arson, kidnapping and other crimes because the trial court conducted pre-trial *James* hearings ensuring that crimes by co-conspirators be tied directly to Petitioners; only evidence of crimes tied to the Petitioners was allowed into evidence, *e.g.*, T442-96. This fact undermines Seamless Garment's argument that "irrelevant" evidence was introduced, but this is another issue not raised in the Petitions and thus not properly before the Court.

4. Because Seamless Garment raises little but fact-based disputes that are unfaithful to the record, its brief is not helpful. The law in this area is clear; it was established in *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982), and *Claiborne* was carefully applied to the facts below by both the trial court and the court of appeals.

For the foregoing reasons, Respondents oppose Seamless Garment's motion.

Respectfully submitted,

Fay Clayton
Counsel of Record
Susan Valentine
Joyce A. Pollack
Robinson Curley & Clayton, P.C.
300 South Wacker Drive, Suite 1700
Chicago, Illinois 60606
(312) 663-3100

Lowell E. Sachnoff
Sachnoff & Weaver, Ltd.
30 South Wacker Drive, Suite 2900
Chicago, Illinois 60606
(312) 207-1000

Attorneys for Respondents